

P A T E N T

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re:	Matthias Gygi	Confirmation No.: 5925
Serial No.:	10/561,748	Examiner: Ren Luo Yan
Filing Date:	April 20, 2006	Group Art Unit: 2854
Docket No.:	1322.1121101	Customer No.: 28075
For:	PRINTING MACHINE	

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Commissioner for Patents
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REPLY BRIEF UNDER 37 C.F.R. § 41.41

CERTIFICATE FOR ELECTRONIC TRANSMISSION:

The undersigned hereby certifies that this paper or papers, as described herein, are being electronically transmitted to the U.S. Patent and Trademark Office on this 13th day of December 2010.

By



Kathleen L. Boekley

Dear Sir:

Pursuant to 37 C.F.R. § 41.41, Appellants hereby submit this Reply Brief in furtherance of the Notice of Appeal filed on April 13, 2010 and the Appeal Brief filed August 3, 2010. No further fees are believed due. Permission is hereby granted to charge or credit Deposit Account No. 50-0413 for any errors in fee calculation.

I. STATUS OF CLAIMS

The status of claims is as set forth in the Appeal Brief, to wit:

Claims 1-7, 11-16, 21-24 and 26 are pending in the application.

Claims 1-7, 11-16 and 21-24 and 26 stand finally rejected under 35 U.S.C. §103(a) as being unpatentable over Applicant's Admitted Prior Art (AAPA) in view of Raksha, U.S. Patent No. 7,047,883, and Corver, U.S. Patent No. 5,247,317.

Claims 8-10, 17-20 and 25 were cancelled

Claims 1-7, 11-16, 21-24 and 26 are under appeal

II. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to be reviewed on appeal is as set forth in the Appeal Brief, to wit:

Whether claims 1-7, 11-16, 21-24 and 26 are patentable under 35 U.S.C. §103(a) over Applicant's Admitted Prior Art (AAPA) in view of Raksha, U.S. Patent No. 7,047,883, and Corver, U.S. Patent No. 5,247,317.

VII. ARGUMENT

The arguments in this Reply Brief are in response to the Examiner's comments in the Response to Arguments second on page 8 of the Examiner's Answer mailed October 13, 2010. Thus, this Reply Brief is not meant to stand alone, but is intended to be read and considered in conjunction with the Appeal Brief filed August 3, 2010.

Appellant's argued in the Appeal Brief that the proposed modification of AAPA in view of Raksha and Corver either would not produce the claimed invention or has no motivation. Briefly, AAPA is cited for disclosing a printing machine, Raksha is cited for disclosing an array of magnetic elements used to create an optically variable effect and Corver is cited for disclosing at least one magnetic element that is covered by a sheet of non-magnetic material. The motivation for modifying AAPA and Raksha in view of Carver was given in the Final Office Action as "to predictably obtain a homogenous magnetic field at the surface of the cylinder."

Appellants pointed out that if a homogenous magnetic field at the surface of the cylinder is produced, a varying optical effect in the impression cannot be produced as required by the claim language. Thus the invention of claim 1 would not be produced by the modifications of the cited art and/or there is no motivation for the proposed combination.

In response, the Examiner writes that "the Corver et al patent was relied on for the teaching of providing a magnetic roller 130 with a sheet of non-magnetic material 131 such as aluminum or stainless steel to cover the magnets 135 disposed on the roller surface for the purpose of obtaining a homogeneous magnetic field at the surface of the cylinder" but that "a homogenous field will be generated under the influence of the magnetic element(s) only locally at these selected locations" because "AAPA, as modified by the teachings of Raksha et al. would only have the magnetic element(s) disposed...at selected locations." See Examiner's Answer, page 9.

The Examiner is apparently arguing that because the magnets would be spaced apart (per Raksha) that a printing machine having locally homogenous magnetic fields (the homogeneity provided for by the non-magnetic sheet of Corver) would be able to "orientate the pigments

contained in the optically variable ink and create a varying optical effect in said impression.” Appellants respectfully disagree.

Raksha teaches spaced-apart magnets because Raksha teaches printing spaced-apart optically variable elements. See Fig 4, for example. The magnets are under the optically variable printed elements, which is the only location where the optically variable ink is disposed. To produce the optically variable effect, the magnets produce a non-homogeneous field. See Fig 3C and column 8, lines 32-36.

So if one modified AAPA in view of Raksha, one would have a printing press that has magnetic elements at the locations where variably optical elements are printed. If one then modifies AAPA and Raksha in view of Corver as suggested, at those locations, the magnetic fields would be homogeneous. See again, Examiner’s Answer, page 9. Thus the proposed modification to AAPA in view of Raksha and Corver would not meet the claim language of “said magnetic element being placed at a location...as to orientate the pigments contained in the optically variable ink and create a varying optical effect in said impression.” The proposed modification would not be able to produce a varying optical effect in the impression because it would have a homogeneous magnetic field where the printing occurs.

Appellants therefore respectfully maintain that modifying the cited art as proposed by the Examiner would not produce the invention of claim 1 and, alternatively, that there is no motivation to make the proposed modification. As claim 11 contains similar elements to those discussed above, Appellants submit that the same reasoning applies as to why claim 11 is not obvious over the cited art.

CONCLUSION

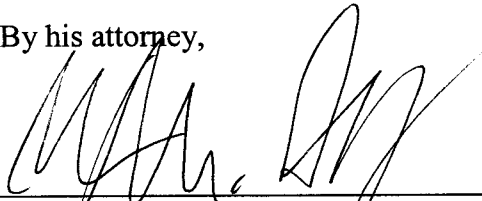
For the reasons stated above as well as those in the Appeal Brief, the claims are patentable over the cited art, and the Examiner's rejections of claims 1-7, 11-16, 21-24 and 26 under 35 U.S.C. §103(a) should be overruled.

Respectfully submitted,

Matthias Gygi

By his attorney,

Date: Dec. 13, 2010

A handwritten signature in black ink, appearing to read "Glenn M. Seager", is written over a horizontal line.

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